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9 *Counsel for Plaintiffs and the [Proposed] Class*

10 **IN THE UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

12 TOWNSEND, et al.,

13 Plaintiffs,

14 v.

15 MONSTER BEVERAGE
16 CORPORATION, et al.,

17 Defendants.

CASE NO. 5:12-cv-02188 VAP (KKx)

**DECLARATION OF AZRA Z.
MEHDI IN SUPPORT OF
PLAINTIFFS' JANUARY 12, 2018
FILINGS**

DATE: January 29, 2018

TIME: 2:00 p.m.

JUDGE: Honorable Virginia A. Phillips

CTRM: 8A

1 I, AZRA Z. MEHDI, declare as follows:

2 1. I am the principal at The Mehdi Firm, PC counsel for plaintiffs Matthew
3 Townsend, and Ted Cross and the putative class in the above-entitled action. I submit
4 this declaration in support of Plaintiffs' January 12, 2018 Filings, filed concurrently
5 herewith. I have personal knowledge of the matters set forth herein, and if called upon,
6 could and would competently testify thereto.

7 2. On December 5, 2017, pursuant to the Court's Order [ECF No. 107],
8 Plaintiffs filed their Reply in Further Support of Class Certification, which included
9 among other things, the Rebuttal Report of Stefan Boedecker and Supplemental Report
10 of Thomas J. Maronick. [ECF Nos. 126, 134-1, 134-2, 148-1, and 148-2].

11 3. Because no protocol had been set for expert discovery, Plaintiffs' counsel
12 proposed and counsel for Defendants agreed on July 25, 2017, that a party could make
13 an informal request for documents related to an expert's report and the responding party
14 could provide documents responsive to the request in 5 business days.

15 4. Attached hereto as Exhibit 1 is a true and correct copy of the July email
16 exchange.

17 5. Pursuant to this agreement, on December 13, 2017, counsel for
18 Defendants, Daniel Wilson, requested documents related to Dr. Thomas Maronick's
19 Supplemental report that had been file don December 5, 2017. Consistent with the
20 agreement Plaintiffs provided the requested materials to Defendants on December 20,
21 2017. A couple additional articles cited in Mr. Maronick's Report were provided on
22 December 21, 2017.

23 6. Since the filing of Plaintiffs' Reply in Support of Class Certification on
24 December 5, 2017 to the present day, Defendants have neither formally, nor informally
25 requested a deposition in connection with Dr. Maronick's Supplement Report.

26 7. At no time after the filing of Plaintiffs' Reply in Support of Class
27 Certification on December 5, 2017 and before Defendants' oppositions to Plaintiffs'
28 Motions to Strike were due on December 22, 2017, did Defendants request an

1 extension or a modification of the briefing schedule, although they had done so on
2 three prior occasions in connection with Plaintiffs' Motion for Class certification. The
3 last extension requested by Defendants was filed on October 10, 2017 – 3 days before
4 their opposition to Plaintiffs' Motion was due pursuant to the Court's Order. [ECF No.
5 101].

6 8. On December 22, 2017, in addition to their oppositions to Plaintiffs'
7 Motions to Strike, Defendants filed another motion to strike entitled "Defendants'
8 Objections to New Evidence Submitted with Plaintiffs" Reply in Support of Motion
9 for Class Certification." [ECF No. 153]. Defendants did not request a meet and confer
10 pursuant to L.R. 7-3 prior to filing this motion to discuss the substance of their
11 contemplated motion and to ascertain a potential resolution, including through an
12 extension of the briefing schedule or otherwise.

13 9. Attached hereto as Exhibit 2 is a true and correct copy of document
14 produced by Defendants Bates numbered MNSTR_TOWNSEND00000001-16.

15 10. I have in my possession two cans of Monster Energy from 2012. Both
16 cans contain the Ideal Combo misstatement at issue in this case, namely "It's the ideal
17 combo of the right ingredients in the right proportion to give you a big bad buzz that
18 only a Monster can." One can contains the following additional notation not at issue in
19 this case: "Athletes, musicians, anarchists, students, road warriors, metal heads, nihilists,
20 geeks, hipsters, bikers, and milfs dig it – you will too." The second can contains a
21 different version of the notation: "Athletes, musicians, anarchists, coed's, road warriors,
22 metal heads, nihilists, geeks, hipsters, bikers, and dig it – you will too" (i.e., removing
23 the word "milfs" and replacing "students" with "coed's").

24 11. Attached hereto as Exhibit 3 is a true and correct copy of excerpts of the
25 transcript from the November 16, 2016 evidentiary hearing in the *In re Dial Complete*
26 *Marketing & Sales Litigation*.

27 12. Attached hereto as Exhibit 4 is a true and correct copy of a screenshot
28 of the link to <https://web.archive.org/web/20121221070621/>

1 <https://www.monsterenergy.com/us/en/products/monster-energy>, referenced in
2 Defendants' Opposition to Plaintiffs' Motion to Exclude Expert Report of Keith R.
3 Ugone [ECF No. 156 at 11, n.13], accessed on January 11, 2018.

4 13. Attached hereto as Exhibit 5 is a true and correct copy of a screenshot
5 link when the "SHOW ALL" button is clicked on
6 [https://web.archive.org/web/20121221070621/https://www.monsterenergy.com/us](https://web.archive.org/web/20121221070621/https://www.monsterenergy.com/us/en/products/monster-energy)
7 / [en/products/monster-energy](https://web.archive.org/web/20121221070621/https://www.monsterenergy.com/us/en/products/monster-energy), accessed on January 11, 2018.

8 14. Attached hereto as Exhibit 6 is a true and correct copy of screenshots of
9 the link [https://www.google.com/search?q=monster+energy+blueberry&oq=](https://www.google.com/search?q=monster+energy+blueberry&oq=monster+energy+blueberry&aqs=chrome.69j69j61j69j60.2048j0j1&sourceid=chrome&ie=UTF-8)
10 [monster+energy+blueberry&aqs=chrome.69j69j61j69j60.2048j0j1&sourceid=c](https://www.google.com/search?q=monster+energy+blueberry&oq=monster+energy+blueberry&aqs=chrome.69j69j61j69j60.2048j0j1&sourceid=chrome&ie=UTF-8)
11 [hrome&ie=UTF-8](https://www.google.com/search?q=monster+energy+blueberry&oq=monster+energy+blueberry&aqs=chrome.69j69j61j69j60.2048j0j1&sourceid=chrome&ie=UTF-8).

12 I declare under penalty of perjury under the laws of the United States of America
13 that the foregoing is true and correct. Executed this 12th day of January 2018, at San
14 Francisco, California.

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16 /s/ Azra Z. Mehdi
17 AZRA Z. MEHDI
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 12th day of January 2018, the foregoing document was filed electronically on the CM/ECF system, which caused all CM/ECF participants to be served by electronic means.

/s/Azra Z. Mehdi

Azra Z. Mehdi